

Message Text

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ACTION COME-00

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R 210356Z JUN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 8983

UNCLAS TOKYO 11254

E.O. 11652: NA
TAGS: ETRD
SUBJECT: POTENTIAL TRADE FACILITATION COMMITTEE
CASE - WANG LABS

REF: (A) STATE 122073, (B) 152807

1. SUMMARY: EMBASSY HAS CONCLUDED FROM INVESTIGATION THAT JAPANESE CUSTOMS HAS NOT DEPARTED FROM USUAL VALUATION PROCEDURES AND IS USING WANG'S OWN PUBLISHED PRICES TO DETERMINE UPLIFT FOR CUSTOMS VALUATION. WE RECOMMEND THAT CASE NOT BE SUBMITTED TO TFC.
END SUMMARY.

2. EMBOFF UNABLE TO MAKE CONTACT WITH MR. FUNG OF TOKYO OFFICE BUT TALKED WITH COMPTROLLER ABOUT PROBLEM. AS HE EXPLAINED, WANG HAS THREE PRICE LISTS FOR ITS PRODUCTS:
1) SUBSIDIARY PRICE (THE LOWEST PRICE), USED FOR INTRA-COMPANY TRANSACTIONS; 2) REPRESENTATIVE PRICE, NEXT HIGHEST), USED FOR SALES TO INDEPENDENT AGENTS OR OTHER REPRESENTATIVES AND 3) INTERNATIONAL PRICE, (HIGHEST PRICE), USED FOR DIRECT SALES TO USERS. WANG FILES ALL THREE PUBLISHED PRICES WITH JAPANESE CUSTOMS.

3. WANG'S COMPLAINT IS THAT JAPANESE CUSTOMS DOES NOT ACCEPT INVOICES SHOWING THE "SUBSIDIARY" PRICE AS REFLECTING THE TRUE VALUE OF THE PRODUCTS BUT RATHER ASSESSES DUTIES
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ON THE BASIS OF THE HIGHER "REPRESENTATIVE" PRICE. DEPENDING ON THE PRODUCT THIS CAN BE 10 TO 30 PERCENT HIGHER THAN THE "SUBSIDIARY" PRICE.

4. ACCORDING TO EMBASSY'S INVESTIGATION, JAPANESE CUSTOMS USES THE BRUSSELS CONVENTION METHOD OF VALUATION (BDV) THAT REQUIRES GOODS TO BE VALUED AT A FREELY OFFERED

PRICE. SINCE THE "SUBSIDIARY" PRICE USED BY WANG FOR SALES TO ITS JAPAN SUBSIDIARY IS AVAILABLE ONLY TO WANG SUBSIDIARIES, CUSTOMS USES WANG'S REPRESENTATIVE" PRICE AS THE FREELY AVAILABLE MARKET PRICE ON WHICH TO BASE DUTY ASSESSMENT.

5. IT APPEARS FROM OUR INVESTIGATION THAT JAPANESE CUSTOMS IS USING WANG'S NORMAL VALUATION PRACTICES UNDER THE BRUSSELS CONVENTION FOR WANG'S PRODUCTS. THE VALUE USED IS NOT AN ARBITRARY PRICE BUT WANG'S OWN PUBLISHED "REPRESENTATIVE" PRICE AND THEREFORE THE UPLIFT DOES NOT APPEAR TO BE EXCESSIVE.

6. ACCORDING TO WANG'S TOKYO OFFICE, THE SPREAD BETWEEN THE SUBSIDIARY PRICE AND REPRESENTATIVE PRICE IS GREATER FOR NEW PRODUCTS THAN FOR OLDER ONES SO UPLIFT IS HIGHER IN THESE CASES. THEY HAVE HOWEVER, WORKED OUT A PLAN WITH THE TOKYO CUSTOMS OFFICE WHERE THE AVERAGE DIFFERENCE BETWEEN THE TWO PRICES WILL BE APPLIED TO ALL IMPORTS. THIS WILL MEAN THE UPLIFT WILL BE LOWER FOR NEW PRODUCTS WHERE THE SPREAD IS THE GREATEST BUT WILL BE SLIGHTLY HIGHER FOR OLDER PRODUCTS. THIS SHOULD NOT ONLY SIMPLIFY PROCEDURES FOR ENTRY OF WANG'S PRODUCTS, BUT ALSO LOWER THE PRICE IMPACT OF THE UPLIFT ON THE NEWER, HIGHER PRICED PRODUCTS AT THEIR PEAK MARKETING PERIOD.

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7. WANG'S TOKYO OFFICE REITERATED THE CONTENTION IN THE LETTER SENT BY WANG TO THE STR THAT IT FEELS CUSTOMS SHOULD USE THE "SUBSIDIARY" PRICE NOT THE "REPRESENTATIVE" PRICE FOR CUSTOMS VALUATION. THIS, OF COURSE, IS THE BROAD ISSUE, I.E., USE OF BDV OR OF "INVOICE VALUE", WHICH IS NOW UNDER DISCUSSION IN THE MTN.

8. IT APPEARS FROM OUR INVESTIGATION THAT THE JAPANESE HAVE NOT DEPARTED FROM THEIR USUAL VALUATION PRACTICES AND THAT THE UPLIFT IS NOT UNUSALLY HIGH SINCE IT IS BASED ON WANG'S OWN PUBLISHED PRICES. WE RECOMMEND THAT THIS CASE NOT BE SUBMITTED TO THE TFC UNLESS WANG HAS EVIDENCE OF CAPRICIOUS TREATMENT, OR CAN SUBMIT PERSUASIVE RATIONALE WHY ALL OTHER BDV COUNTRIES TO WHICH IT EXPORTS (3/18/77 LETTER TO STR, PAGE 2) DO NOT APPLY VALUE UPLIFTS TO WANG'S PRODUCTS.

9. A SEPARATE ISSUE MENTIONED IN ATTACHMENTS TO GRAYSON-MCPHEE LETTER OF APRIL 6, 1978 CONCERNS MARKET ADVANTAGES PERTAINING TO DOMESTIC COMPUTER MAKERS THROUGH THE OPERATIONS OF THE GOJ SUBSIDIZED JAPAN ELECTRONIC COMPUTER CORPORATION LEASING COMPANY. EMBASSY WILL LOOK

INTO THIS AS POSSIBLE TFC CASE, IF ALLEGATIONS OF
"BELOW MARKET" FINANCING ARE BORNE OUT.
MANSFIELD

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